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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA**

Derick NAVARRO GUILLEN,

Petitioner,

v.

Kristi NOEM, Secretary, U.S. Department of
Homeland Security, in her official capacity, et
al.,

Respondents.

Case No. **2:25-cv-02447-CDS-NJK**

**PETITIONER’S REPLY IN SUPPORT
OF EMERGENCY MOTION FOR
PRELIMINARY AND MANDATORY
INJUNCTION ECF NO. 5; REPLY TO
RESPONDENTS’ OPPOSITION, ECF
NO. 8**

Petitioner, Derick Navarro Guillen, by and through undersigned counsel, respectfully submits this Reply in support of his Emergency Motion for Preliminary and Mandatory Injunction. Respondents’ Opposition does not dispute the core, dispositive facts: ICE transferred Mr. Navarro Guillen after removal proceedings were initiated in the Las Vegas Immigration Court, after a master calendar hearing was scheduled, and after counsel entered an appearance; the transfer occurred without any Immigration Judge order changing venue; and the transfer immediately caused EOIR to reject Petitioner’s bond filing and to cancel the scheduled Las Vegas master

1 calendar hearing, leaving Petitioner detained with no pending hearing before any Immigration
2 Judge.

3 Equity and due process do not permit the government to create an adjudicatory vacuum
4 through unilateral detention logistics and then invoke that vacuum to prolong detention. The Court
5 should grant the requested relief, restoring the status quo ante and ensuring prompt, meaningful
6 custody review.

7 I. FACTUAL UPDATE

8 Since the Motion was filed, counsel has not received any formal notice of Petitioner's
9 transfer despite counsel's appearance in the removal proceedings and this Court action. Counsel
10 learned of the transfer only indirectly, and repeated efforts to contact Petitioner following his
11 transfer from the Nevada Southern Detention Center in Pahrump, Nevada, to California have been
12 futile. The lack of notice and inability to communicate underscore the immediate, ongoing due
13 process harm and the need for prompt injunctive relief. See Decl. of Daniel F. Lippmann (ECF No.
14 10) and First Supp. Decl. of Daniel F. Lippmann (ECF No. 11).

15 II. ARGUMENT

16 A. This Court Retains Habeas Jurisdiction; Respondents Cannot Defeat Review by 17 Post-Filing Transfer

18 Habeas jurisdiction is determined at the time the petition is filed. Petitioner was detained
19 within this District when the Petition was filed and the Court's jurisdiction attached at that time.
20 A post-filing transfer cannot divest the Court of jurisdiction or moot the controversy where the
21 petitioner continues to suffer the challenged restraint and where effective relief remains available.
22 See, e.g., *Ex parte Endo*, 323 U.S. 283 (1944) (government may not defeat habeas jurisdiction by
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1 removing petitioner after filing); *Rumsfeld v. Padilla*, 542 U.S. 426, 441 (2004) (recognizing
2 Endo’s rule that a transfer after filing does not defeat jurisdiction where the court can direct relief).

3 Here, the unlawful transfer is itself a central part of the constitutional injury, and Petitioner
4 remains detained without meaningful custody review. This Court may order relief directed to
5 federal officials before it, including an order requiring Petitioner’s return to this District or,
6 alternatively, release under reasonable conditions, as well as prospective restraints preventing
7 further transfers that would interfere with counsel and adjudication.

8 **B. ICE’s Transfer Worked an Ultra Vires, De Facto Change of Venue and Violated**
9 **Due Process**

10 Noncitizens in removal proceedings are entitled to due process, including a meaningful
11 opportunity to be heard with the assistance of counsel. Transfers that sever or materially impair
12 the attorney–client relationship and disrupt ongoing adjudication violate due process where they
13 may have affected the fairness or outcome of the proceedings. See *Rios-Berrios v. INS*, 776 F.2d
14 859, 862–63 (9th Cir. 1985); *Orantes-Hernandez v. Thornburgh*, 919 F.2d 549, 565–66 (9th Cir.
15 1990); *Maldonado-Cruz v. INS*, 883 F.2d 788, 790 (9th Cir. 1989); *Lata v. INS*, 204 F.3d 1241,
16 1246 (9th Cir. 2000).

17 EOIR’s regulations are equally clear: venue in removal proceedings may be changed only
18 by an Immigration Judge with administrative control over the Record of Proceedings. 8 C.F.R. §
19 1003.20(b). ICE lacks authority to accomplish a constructive venue change through detention
20 logistics. See Matter of M-N-I-, 28 I&N Dec. 803 (BIA 2024). Under *Accardi*, agencies must
21 follow their own binding regulations; action that conflicts with those rules is ultra vires and
22 unlawful. United States ex rel. *Accardi v. Shaughnessy*, 347 U.S. 260, 266–68 (1954).

1 That is exactly what occurred here. ICE transferred Petitioner to California without any
2 Immigration Judge venue order. EOIR then rejected Petitioner's bond filing solely because ICE
3 had moved him, and the scheduled Las Vegas master calendar hearing was cancelled with no
4 replacement hearing notice. Those consequences are not incidental; they are the deprivation. The
5 transfer displaced the proper forum for custody adjudication, interfered with counsel, and stripped
6 Petitioner of a meaningful opportunity to seek release. Thus, disregarding their own policy,
7 11022.1: Detainee Transfers, which outlines the factors to consider when making a transfer
8 determination.¹

9 **C. Petitioner Satisfies the *Winter* Factors for Preliminary and Mandatory Relief**

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11 Likelihood of success. Petitioner has shown a strong likelihood of success on his due
12 process and ultra vires claims because ICE's post-jurisdiction transfer worked a de facto venue
13 change contrary to 8 C.F.R. § 1003.20(b), severed access to counsel, and foreclosed meaningful
14 custody review.

15 Irreparable harm. Loss of liberty constitutes irreparable harm. The harm is compounded
16 here by the cancellation of Petitioner's scheduled master calendar hearing, the rejection of his bond
17 filing based on ICE's unilateral transfer, and the resulting absence of any pending hearing before
18 any Immigration Judge. Continued detention under these conditions is irreparable and cannot be
19 remedied after the fact.

20 Balance of equities and public interest. The equities and public interest favor enforcing
21 EOIR's venue rules, preserving access to counsel, and preventing executive agencies from
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24 ¹ <https://www.ice.gov/doclib/detention-reform/pdf/hd-detainee-transfers.pdf>

1 nullifying judicial process through unilateral transfers. Administrative convenience cannot
2 outweigh constitutional and regulatory mandates.

3 **D. The Court Should Grant Targeted Relief Restoring the Status Quo Ante and**
4 **Ensuring Meaningful Custody Review**

5 Petitioner respectfully requests that the Court grant the relief sought in the Motion,
6 including: (1) an order requiring immediate release under reasonable conditions of supervision or,
7 alternatively, prompt individualized custody redetermination under INA § 236(a), 8 U.S.C. §
8 1226(a); (2) an order declaring that venue remains vested in the Las Vegas Immigration Court
9 absent an Immigration Judge order under 8 C.F.R. § 1003.20(b); and (3) an injunction preventing
10 Respondents from reclassifying Petitioner as subject to mandatory detention under INA § 235(b),
11 8 U.S.C. § 1225(b), or invoking any automatic-stay mechanism (including Form EOIR-43) or
12 *Matter of Yajure Hurtado* to foreclose custody jurisdiction and render this Court's relief illusory.
13

14 **III. CONCLUSION**

15 For the foregoing reasons, Petitioner respectfully requests that the Court grant the
16 Emergency TRO and Motion for Preliminary and Mandatory Injunction.

17 Respectfully submitted this 31st day of December, 2025.

18
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